

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

LARRICK EVANS DEGREE)
)
)
v.) NO. 2:07-CV-87
)
)
NORTHEASTERN CORRECTIONAL)
COMPLEX, *ET AL.*)

MEMORANDUM OPINION AND ORDER

On April 20, 2007, the plaintiff filed a § 1983 complaint, [Doc. 1], with this Court against Defendants Northeastern Correctional Complex (“NECX”), Warden Howard Carlton, Assistant Warden David Sexton, and three unnamed officers. Then on May 18, 2007, the plaintiff filed an amended complaint, [Doc. 2], and added the surnames of the officers, Bailey, Powel, and Reaves. According to the Court’s docket sheet, it appears that none of the defendants were properly served. The plaintiff then filed the amended complaint again on May 23, 2007, [Doc. 9]. The docket sheet does not show that the defendants were served; however, Defendants David Sexton and Howard Carlton filed a joint answer, [Doc. 14], and the first motion to dismiss, [Doc. 15], on July 16, 2007. On August 9, 2007, Defendants Sexton and Carlton filed a second motion to dismiss, [Doc. 17]. This Court granted Defendants Sexton and Carlton’s second motion to dismiss and also dismissed the Northeastern Correctional Complex in its March 19, 2008 Memorandum Opinion and Order, [Doc. 19].

Also in this Memorandum Opinion and Order, this Court ordered the plaintiff to show cause why this case should not be dismissed as to the remaining defendants, who still have not been served, for failure to prosecute, and on April 30, 2008, the plaintiff filed his response stating that prior to the filing of this suit, he only knew the last names of the officers. Also, he has been transferred and incarcerated in several different facilities; thus, he has been unable to assist his attorney in identifying the three officers who allegedly assaulted him.

This case has been pending for well over one year, and the plaintiff has failed to properly serve the remaining defendants within the time frame allowed in the Federal Rules of Civil Procedure. The plaintiff has shown no effort to use the discovery process to ascertain the identities of the officers he alleges assaulted him. Neither the docket sheet nor the plaintiff's response to the show cause order shows any reasonable efforts taken by the plaintiff to prosecute his case. Accordingly, it is hereby **ORDERED** that the plaintiff's request for additional time to serve the defendants is **DENIED** and that the case is hereby **DISMISSED WITH PREJUDICE**.

ENTER:

s/ J. Ronnie Greer
United States District Judge